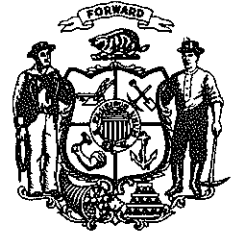


State Representative **Spencer Black**



State Capitol
P.O. Box 8952
Madison, WI 53708
(608) 266-7521

Remarks of Representative Spencer Black

Before the Senate Committee on Public Health, Senior Issues, Long Term Care and Privacy

Regarding Senate Bill 172

Chair Carpenter and Committee Members.

Thank you for the opportunity to speak in support of Senate Bill 172. This legislation would prohibit the use of automated, computerized phone calls commonly known as robocalls.

Robocalls are calls dialed by a computer to a large number of telephones to deliver a prerecorded message. These calls were used extensively during recent political campaigns. Wisconsin law currently bans robocalls for commercial purposes, but not for political purposes.

Robocalls are excessively intrusive on personal privacy, whether used for political or commercial purposes. Because they are cheap and easy to make, their use has increased dramatically. While I believe we must protect the right of candidates to get their message out, the volume of these calls has become excessive. They are overly intrusive on the privacy of our citizens, often to the point of harassment. In fact, many campaigns specifically used robocalls to harass voters supporting an opposing candidate. Robocalls, because of their great volume, are unacceptably invasive and should be banned.

The bill before you is modeled on an Indiana law which prohibits the use of an "automatic dialing-announcing device" unless the person receiving the call has given permission to play a recorded call. The Indiana law requires that all mass phone calls must be placed by a human being unless the customer has given written or verbal consent for a recorded message. The caller can ask for permission to play a recorded message, but the message can only be played if consent is given. The bill exempts calls by a school to students or parents, by a



business that has a current relationship with a customer or an employer advising its employees of work schedules.

The new law is especially needed because of a campaign technique widely used by the National Republican Congressional Committee prior to the November 7th election. The NRCC used robocalls to repeatedly call voters, sometimes as many as twenty times a day, making it appear as if the call was coming from the Democratic candidate. The technique so annoyed voters who were misled as to which campaign was making the call that it may have changed the result of several Congressional elections.

While this technique was primarily used by Republicans last November, I know enough about campaigns to know that once a campaign technique is introduced and has some success, it usually is widely used in the next election by both parties. The time to head off widespread use of harassing phone calls is now.

It is important that we protect the ability of candidates to campaign for office, even if the campaigning is sometimes annoying. That's the price of democracy. However, the widespread use of this new technology crosses the line from campaigning to harassment and should be prohibited. This law will not interfere with reasonable campaigning. Indiana already bans robocalls and that state had some of the most vigorous congressional campaigns in the nation during the recent election.

It is worth noting that several other states have similar restrictions which have repeatedly been upheld by the courts.



State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

August 15, 2007

The Honorable Tim Carpenter, Chair
Committee on Public Health, Senior Issues, Long Term Care, and Privacy

Re: SB 172 relating to the use of automatic dialing announcing devices.

Dear Senator Carpenter:

Thank you for permitting the Department of Agriculture, Trade & Consumer Protection the opportunity to testify regarding SB 172.

This bill, if passed, will place two laws enforced by DATCP in conflict with one another. Current law, section 100.52(4), is part of Wisconsin's No-Call law that prohibits telephone "solicitations" that use electronically prerecorded messages. Although this law exempts calls where the recipient of the call has given consent for the prerecorded message, it does not exempt calls to a current client. Sec. 100.52(4) reads:

100.52(4) TELEPHONE SOLICITOR REQUIREMENTS. (a) A telephone solicitor or an employee or contractor of a telephone solicitor may not do any of the following:

- 1. Use an electronically prerecorded message in telephone solicitation without the consent of the recipient of the telephone call.*

DATCP is concerned about the effect SB 172's regulation will have on those calls that are solicitations with prerecorded messages, and currently covered by existing No-Call law. This bill overlaps and confuses the laws and it appears to us that the drafter didn't see that or didn't try to harmonize the no call law with the provisions of this bill.

While SB 172 prohibits prerecorded calls whether or not they are solicitations, it exempts calls that are not autodialed and those that are made to a person who has a current relationship with the caller.

For example, under the bill, a recorded solicitation that is autodialed is ok, even without the consent of the person called, if the call is going to a person w/ a current business relationship with the call initiator. However, under Sec. 100.52, the no call law, that call would be prohibited unless there was actual consent for that call. Which takes precedence? If it is determined that the bill's provisions take precedence, the no-call law is weakened. Is that what is intended? If so, we oppose this bill. The "which takes precedence" question and the entire issue of how this bill affects the no call law needs to be addressed and that is not done in this bill.

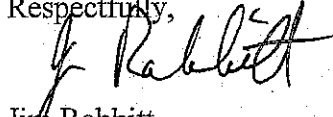
Agriculture generates \$51.5 billion for Wisconsin

The department encourages this committee to consider revisions that would ensure no conflicts between laws. If the committee determines that existing law adequately covers calls that are "solicitations" the potential conflict can easily be removed by limiting coverage under this bill to "non-solicitation" calls.

Finally, the department also seeks a definition of "current business or personal relationship". Most large corporations have numerous affiliates and subsidiaries. Often the names of the affiliated entities and the products or services that they offer are so varied that the relationships between affiliates within the corporation are difficult to detect. Consumers therefore do not consider themselves to have a relationship with the affiliate or subsidiary simply because they have a relationship with the corporation.

Thank you for this opportunity to comment on Senate Bill 172.

Respectfully,

A handwritten signature in dark ink, appearing to read "Jim Rabbitt", is written over the word "Respectfully,".

Jim Rabbitt
Director
Bureau of Consumer Protection